IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 1553 of 2007(I)

AGAINST THE ORDER EA 96/06 IN EP 30/2005 IN
OS 115/02 of MUNSIFF COURT, PAYYANNUR

.....

PETITIONER:

VADAKEDATH KRISHNAN NARI,
S/O.MADHAVAN NAIR, CHATHAMANGALAM,
PO.,KUTTAPRAMBA, THALIPARAMBA TALUK.

BY ADV. SMT.T.RESMI DAMODARAN

RESPONDENTS:

ALANKAL MINI BIJO, W/O.BIJO,
THIRUMENI AMSOM, PULINDAM DESOM,
THALIPARAMBA TALUK.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 1553 OF 2007

Dated 12th January 2007

J U D G M E N T

Petitioner is judgment debtor and respondent the decree holder in O.S.115/02 on the file of Munsiff court, Payyannoor. For realisation of decree debt respondent filed E.P.30/2005. Property of the petitioner was attached and sought to be sold. Respondent/decree holder filed an application under Rule 72 of Order XXI of Code Civil Procedure for permission to bid and set off. Learned Munsiff allowed that application and property was directed to be sold. At that stage this petition is filed under Article 227 of Constitution of India producing Ext.P1 counter filed by petitioner. It is a petition filed under Rule 72 for permission to bid and set off.

2. Argument of learned counsel appearing for petitioner is that in Ext.P1 petitioner has contended that value shown by decree holder is too low and learned Munsiff has not considered the said question. In this writ petition, petitioner has not challenged

the order passed by the executing court directing sale of the property or overruling the objections raised by petitioner. There is no case that learned Munsiff has not complied with the provisions of either Rule 64 or Rule 66 of Order XXI of the Code of Civil Procedure. In such circumstance, I find no reason to interfere with Ext.P2 order. Under Ext.P2 order learned Munsiff has only granted permission to the decree holder to participate in the auction and to bid and set off.

3. Learned counsel appearing for petitioner submitted that petitioner is challenging the order directing sale of the property passed without considering the objections and if no order is passed property would be sold on 15/1/2007. If the petitioner pays or deposits Rs.10,000/- (Rupees Ten Thousand only) before the executing court on the date when the case is posted for sale, learned Munsiff to grant an adjournment of sale.

Writ petition is disposed of.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.